



PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 060282.00150
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number: 10/821,868 Filed: April 12, 2004
	First Named Inventor: Jussi PIHLAJAMAA et al.
	Art Unit: 2617
	Examiner: Contee, Joy Kimberly

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed

☒ Attorney or agent of record.
Registration No. 58,178

☐ Attorney or agent acting under 37 CFR 1.34.
Reg. No. is acting under 37 CFR 1.34 _____



Signature

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Typed or printed name

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Telephone number

July 2, 2007

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 1847

Jussi PIHLAJAMAA et al.

Art Unit: 2617

Application No.: 10/821,868

Examiner: Contee, Joy Kimberly

Filed: April 12, 2004

Attorney Dkt. No.: 060282.00150

For: OPEN MODEM - RFU INTERFACE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 2, 2007

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicants hereby submit this Pre-Appeal Brief Request for Review of the final rejections of claims 1-16 in the above identified application. Claims 1-16 were finally rejected in the Office Action dated January 4, 2007. Applicants timely filed a Response to the Final Office Action on March 5, 2007, within two months of the mail date of the Office Action (March 4, 2007, being a Sunday) and the Office issued an Advisory Action dated June 6, 2007, maintaining the final rejections of claims 1-16. Applicants hereby timely appeal these rejections (within one month of the mail date of the Advisory Action) and submit this Pre-Appeal Brief Request for Review.

Claims 1-16 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,717,516 of Bridgelall ("Bridgelall"). This rejection is clearly erroneous.

Bridgelall generally relates to hybrid Bluetooth/RFID based real time location tracking. As explained at column 1, lines 35-44, Bridgelall aims to provide an improvement in locating items that have active or passive back scatter RFID tags. Bridgelall, at column 5, lines 1-15, describes that a fixed device 12 may include an RF module 34 having an antenna 36. A Bluetooth radio interface 42 couples the RF module 34 to a Bluetooth baseband modem 46.

Claims 1, 6, and 13 each recite: “wherein the baseband modem and the radio frequency unit respectively form physically separate modules” (claim 1), “a radio equipment comprising physically separate modules of a baseband modem and a radio frequency unit” (claim 6), “wherein the baseband modem module and the radio frequency unit module are physically separated” (claim 13). Bridgelall clearly does not disclose or suggest at least these features of the claimed invention.

The Office Action took the position that these features are taught in Figure 2 and column 5, lines 1-15 of Bridgelall. However, neither column 5, lines 1-15, nor Figure 2 disclose or suggest, “wherein the baseband modem and the radio frequency unit respectively form physically separate modules” (as recited in claim 1) or the other features described above. Thus, the Office Action’s position regarding the cited art constitutes clear factual error.

Because the Office Action did not provide any analysis to support its conclusion of anticipation, the rejection is treated as construing elements 38 and 34 as the claimed radio frequency unit and some element within box 54 as being the claimed baseband modem module. Even under this assisted treatment, the Office Action’s analysis contains clear error.

Although elements 38 and 34 are shown outside of box 58, an examination of the context of Figure 2 shows that elements 38 and 34 are not disclosed as physically separate from elements 44 and 42 respectively. For example, element 72 is shown in a separate from box 60, but would have to be physically connected in order to function, because element 72 is just flash memory. The connection between element 72 and box 60 is shown as similar to the connection between elements 34 and 42 and elements 38 and 44 respectively.

Accordingly, one of ordinary skill in the art would not have interpreted Figure 2 or column 5, lines 1-15, as disclosing “wherein the baseband modem and the radio frequency unit respectively form physically separate modules” (as recited in claim 1) or the other features described above. Thus, the rejection contains clear factual error and should be reversed. **The art clearly does not make any disclosure of physically separate modules.**

The Office Action, at page 2, item 1, in a single paragraph, responded to the argument above. The Office Action took the position that Bridgelall describes that device 12 includes

an “RF module,” an interface, and a baseband modem, citing Figure 2. The Office Action asserted that device 12 includes physically separate modules, and stated that this assertion is supported by column 5, lines 1-15, and Figure 2. The Office Action further took the position that the arrows and lines in Figure 2 indicate the coupling of separate modules. This assertion is simply incorrect, *i.e.* it contains clear factual error.

Regarding Figure 2 of Bridgelall, in accordance with the designations “TX” and “RX”, respectively, column 5 describes the boxes designated with reference numerals 34 and 38 to include transmitters/receivers (*see* column 5, line 40), wherein the box designated with reference numeral 34 is expressly designated as an RF module at column 5, lines 3-4.

The Office Action’s position that the block diagram has any relationship to physical structure is strange, because such is not a necessary inference. Furthermore, the Office Action’s particular assertions regarding this block diagram are incorrect. In the block diagram shown in Figure 2, the separately drawn modules are **not** disclosed or suggested as being “physically separate.”

Reference numerals 42 and 44, respectively, of Figure 2 of Bridgelall designate radio interfaces that – at most – designate a protocol, but nothing physically present (*i.e.* only air). Thus, it should be apparent that the “device” 12 of Figure 2 of Bridgelall is not a diagram of the physical structure of the device, nor is it designed to show the actual structural correlation of the units discussed. Instead, Figure 2 shows the logical relationship (logical connections) amongst the various shown units, as one of ordinary skill in the art would expect from a block diagram.

Thus, the block diagram (and associated discussion in the specification of Bridgelall) do not show **physically separate** modules, nor would one of ordinary skill in the art view Figure 2 as being an illustration of the physical arrangement or as being a structure diagram of Bridgelall’s “fixed device 12.” Accordingly, the Office Action’s explanation contains clear factual error and should be reversed.

Furthermore, not only is Figure 2 not a structural diagram or an illustration of the physical arrangement of Bridgelall’s “fixed device 12,” but Bridgelall does provide some

information regarding the physical arrangement, and the information shows that the rejection contains clear error.

Specifically, Bridgelall, at column 5, lines 29-56, indicates that the processors are connected to the RF modules 34, 38, such that reference numeral 58 designates a baseband processor and reference numeral 60 designates a host interface processor.

However, as defined in, for example, claim 1, the claimed “radio frequency unit,” which is in a physically separate module from the baseband modem, includes both the digitally operating radio frequency control means and the radio frequency part means. Accordingly, even if box 58 is viewed as structurally separate from the RF modules 34, 38 and the host processor 60, then what is disclosed by Bridgelall is that the baseband modem is structurally integrated with (not physically separate from) the RFID processor. As column 5, lines 29-31, of Bridgelall express it: “The Bluetooth and RFID functionality is efficiently and effectively combined by using a single based [sic] band processor and single host interface processor.”

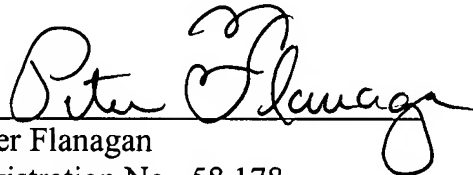
Thus, in view of Figure 2 of Bridgelall and its associated description in the specification of Bridgelall, even if the RF module(s) 34, 38 were considered to be physically separated by the radio interfaces 42, 44 from the baseband modem module 46, 48 (not admitted), then the digitally operating radio frequency control means, *i.e.* the processors, are together as part of the box designated with reference numeral 58. **This conclusively proves that the two modules are not physically separate**, and that the rejection consequently includes clear error (*see especially*, “combined by using a single based [sic] band processor,” column 5, lines 29-31).

The Advisory Action, at the continuation sheet, took the position that Bridgelall states that the device 12 includes an RF module and a Bluetooth baseband modem of conventional design, at column 5, lines 1-15. The Advisory Action took the position that “modules are subset units which maybe grouped together for use,” that “the modem is of conventional design,” and consequently that “device 12 comprises physically separated modules that are connected as described at column 5, lines 1-15, and shown in the block diagram of Figure 2.”

The Advisory Action's argument appears to rely on the faulty assumption that the conventional design of a Bluetooth baseband modem includes a requirement that the Bluetooth baseband modem be implemented as a physically separate component. There is, however, not the slightest trace of evidence of record to support this assumption. The Advisory Action seems to reflect an imagined view that Bridgelall's term "conventional" is suggesting that a commercial off-the-shelf (COTS) Bluetooth baseband modem is added to the device 12. Such a view would be incorrect. The term "conventional" is just an indication that no detailed discussion of the Bluetooth baseband modem is provided in the discussion in Bridgelall.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,


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Enclosures: PTO/SB/33 Form; Notice of Appeal; Petition for Extension of Time (EOT);
Check No. 16656